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FISCAL IMPACT STATEMENT

LS 7087
BILL NUMBER: SB 287

NOTE PREPARED: Feb 7, 2007
BILL AMENDED: Feb 6, 2007

SUBJECT: Various property tax matters.

FIRST AUTHOR: Sen. Kenley
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Appeals:* This bill adjusts the procedures for administrative and judicial appeal of a property tax assessment or exemption.

Sales Disclosure: This bill provides that if a closing statement was prepared for a conveyance, the property sales disclosure form must include the closing statement or a statement from the mortgagor or closing agent that states the sale price. It specifies that before filing a sales disclosure form with the county auditor, a person must submit the form to the county assessor (or township assessor in the case of a county containing a consolidated city), who must review the form and, if the form is accurate and complete, stamp the form as eligible for filing with the county auditor.

Assessment Duties: This bill permits the county legislative body to adopt an ordinance for the holding of a referendum to determine whether to transfer to the county assessor the property tax assessment duties of the elected township assessor or township trustee-assessor of a particular township. It also permits the county legislative body to adopt an ordinance for the holding of a referendum to determine whether to transfer the duties back to the township assessor or trustee-assessor.

The bill provides that a referendum for the transfer of assessing duties must be on a township-by-township basis. It specifies that an ordinance for the holding of a referendum on the transfer of assessment duties to the county assessor may not be adopted in a year in which an election of township assessors will be held in the county.

In addition to granting authority to the county to hold a referendum on transferring a township's duties, the bill transfers assessment duties from a particular township if for a general election after June 30, 2008, there

is not a candidate in the township for the office of township assessor or the office of township trustee-assessor who has attained the certification of a level two assessor-appraiser.

Appraiser Certification: The bill requires a candidate for county assessor, elected township assessor, or township trustee-assessor to be a certified level two assessor-appraiser. It provides that salary increases for assessors, deputies, and employees who obtain the certification apply if the certification was obtained before assuming office or becoming employed by the assessor. The bill provides that the additional amount a township assessor or employee receives on becoming a certified level two Indiana assessor-appraiser is in addition to and not part of the person's annual compensation.

This bill also creates a level three Indiana assessor-appraiser certification to be administered by the Department of Local Government Finance (DLGF). It provides that a person who attains a level three certification is eligible for positions and for pay increases for which a level two is eligible.

CVET: The bill repeals an obsolete provision in the Commercial Vehicle Excise Tax (CVET) concerning the filing of information returns in May 2000.

Personal Property Returns: This bill provides that the county assessor shall review and may audit personal property tax returns that are currently reviewed by the DLGF.

Industrial Assessments: The bill allows a county assessor to petition the DLGF to assess an industrial facility.

Industrial Assessment Appeals: The bill provides that an appeal of an assessment of the real property of an industrial facility made by the DLGF is subject to appeal to the Indiana Board of Tax Review (IBTR), and establishes requirements for the findings of the IBTR.

Ratio Studies: This bill requires the DLGF to conduct all ratio studies required for equalization and annual adjustments.

Tax Rates: The bill provides for annual adjustment of maximum property tax rates to account for the change in assessed value of real property that results from an annual adjustment of the assessed value of real property.

Budget and Debt Reporting Deadlines: This bill requires most political subdivisions to adopt a budget by September 30. It also requires political subdivisions to submit financing data to the department by December 31.

Disaster Reassessment: The bill requires the county assessor instead of the DLGF to order the reassessment of property destroyed in a disaster.

Exemption Filing: This bill sets May 15 as the deadline to apply for a property tax exemption.

Abatement Corrections: The bill provides a procedure, for the various types of property tax abatement, to correct an erroneous understatement of an assessed value deduction by the application of a separate deduction after the regular abatement schedule expires.

Reassessment Fund: This bill provides that an appropriation from the property reassessment fund must be approved by the fiscal body of the county after the review and recommendation of the county assessor.

Late Payment Penalties: The bill provides that the 5% delinquency penalty applies to delinquent property taxes if the taxes are paid within 30 days after the due date and the taxpayer is not liable for delinquent property taxes due in a previous installment (rather than due in a previous year, under current law) for the same parcel.

Levy Excess / Shortfall: This bill provides that, in the case of a civil taxing unit that has a levy excess for a particular year, experienced a shortfall in property tax collections in the preceding year, and did not receive permission to increase its property tax levy to make up the shortfall, the amount the civil taxing unit must transfer to its levy excess fund shall be reduced by the amount of the civil taxing unit's shortfall in the preceding calendar year.

Effective Date: Upon passage; January 1, 2007 (retroactive); July 1, 2007; January 1, 2008.

Explanation of State Expenditures: (Revised) *Appeals:* The Administrative Orders and Procedures Act (AOPA) outlines the rules and procedures conducting administrative and judicial reviews for state agencies. Some state agencies are governed by their own statutes and not by AOPA. Under current law, property tax appeals to the IBTR and Indiana Tax Court are governed by both AOPA and specific property tax appeals statutes. Under this proposal, property tax appeals would be governed only by the property tax appeal statutes and AOPA would no longer apply.

Appraiser Certification: The DLGF would be required to implement a level 3 assessor-appraiser certification program. This provision could result in the need for additional resources.

Personal Property Returns: Under this provision, the DLGF would no longer be required to perform reviews of personal property returns. Fewer resources would be needed for personal property functions. These resources could be redirected to other DLGF functions.

Industrial Assessments: Under current law, a petition to assess an industrial facility may be filed with the DLGF (1) by at least 250 real property owners if filed before January 1 of year in which a general reassessment begins; or (2) at any time by the industrial taxpayer. This bill would also permit the county assessor to petition the DLGF to assess the property before January 1 of each year. This provision could result in the need for additional resources if the number of assessments is increased.

Ratio Studies: Under this bill, the DLGF would be required to conduct all ratio studies required for equalization and annual adjustments. The DLGF would also be able to eliminate the authority of other entities to conduct ratio studies.

Abatement Corrections: The state pays Property Tax Replacement Credits (PTRC) in the amount of 60% of school General Fund levies attributable to all property. The state also pays 20% of the portion of operating levies (including the remaining 40% of the school GF levy) that are attributable to real property and non-business personal property. Homestead credits are paid by the state in the amount of 20% of the net property tax due for qualifying funds on owner-occupied residences.

Under this proposal, subject to appropriation, annual state PTRC and Homestead payments could vary. The amount of the increase/decrease would depend on the amount of the error. PTRC and homestead credits are paid from the Property Tax Replacement Fund.

Explanation of State Revenues: *Appeals:* Under this proposal, the IBTR would be required to charge a taxpayer for the cost of preparing copies and transcripts transmitted to the Indiana Tax Court if the taxpayer appeals an IBTR determination to the Court. This provision would increase state revenues and help to offset the IBTR's administrative cost for providing the record to the Court.

Explanation of Local Expenditures: (Revised) *Appeals:* The bill would make several changes in the process to appeal an assessment or exemption action. Among them are changes to informal hearings, county property tax assessment board of appeals (PTABOA) hearings, notice requirements, and hearing deadlines.

Under current law, taxpayers are required to first participate in an informal hearing with the township assessor before they may proceed with a formal appeal. Under this proposal, a taxpayer has the option of asking for an informal hearing. If the taxpayer asks for an informal hearing then the assessor must meet with the taxpayer.

Currently, if there are no unresolved issues after the preliminary conference, then the assessment is changed and the PTABOA is notified, but no hearing takes place in front of the PTABOA. The PTABOA has the right to change the assessment. Under this bill every appeal would result in a hearing before the PTABOA, even if there is agreement between the assessor and taxpayer. The PTABOA may accept or reject the agreement, in whole or in part. This provision could result in an increase in PTABOA hearings.

The PTABOA currently has 90 days in most counties and 180 days in larger counties to conduct a hearing once the petition for appeal has been filed. This proposal would change the time limit to 180 days for all counties.

Sales Disclosure: Under current law, sales disclosure forms are filed with the county auditor and then forwarded to the county assessor. This bill would require taxpayers to submit sales disclosure forms to the county assessor (township assessor in Marion County) for an accuracy and completeness review. The assessor would stamp accurate, complete forms as eligible to file with the county auditor.

Assessing officials use information currently contained in the sales disclosure form to compute assessments and annual adjustments. Only forms with accurate and complete information are of use. Better sales information will produce more accurate property assessments. Some counties already have an unofficial arrangement between the assessor and auditor for the assessor to check the form before the auditor accepts it. For other counties, additional resources might be necessary to check the forms as they are filed.

Under this provision, the sales disclosure form must have attached a copy of the closing statement or a statement from the mortgagor or closing agent that states the sale price.

Assessment Duties: Under this proposal, the county would be permitted to hold a referendum in a township to determine whether to transfer the assessment duties from the township assessor to the county assessor. An ordinance for the holding of a referendum may not be adopted in a n election year for township assessors.

The transfer of elected township assessor duties would not take place until the township assessor's term has expired. If a transfer is made then the county and township maximum levies would be adjusted to reflect the change.

Additionally under the bill, the assessment duties from a particular township would automatically transfer to the county assessor if there are no level two certified candidates for township assessor or trustee-assessor. The assessor duties would transfer back to the township at a later election where a certified candidate is elected.

Appraiser Certification: Under this proposal, a candidate for county assessor, township assessor, or township trustee-assessor would have to be certified as a level 2 assessor-appraiser in order to run in an election after June 30, 2008.

Under current law, county and township assessors must attain a level 1 certification within one year and a level 2 certification within two years of taking office. County or elected township assessors who fail to get their certifications must forfeit the part of their salary that relates to real property assessment.

The bill also specifies that the additional compensation received by a level two certified assessor or employee is in addition to and not part of regular salary.

Personal Property Returns: Under current law, the township assessor, or their contractor, is required to examine and verify the accuracy of each personal property return and, if appropriate, compare the return the taxpayer's books. Township assessors must forward copies of all personal property tax returns with AV exceeding $150,000 to the county assessor. The county assessor must forward these returns to the DLGF. The DLGF is required to review all returns with an AV of $15,000 or more to determine if any assessments are improper.

Under this provision, county assessors would no longer forward returns to the DLGF and the DLGF would not be required to perform any reviews. This bill would require the county assessor to audit the returns over $150,000AV to determine if any assessments are improper. This provision could result in increased expenses for county assessors.

Under this provision, county assessors would no longer forward returns to the DLGF and the DLGF would not be required to perform any reviews. This bill would require the county assessor to review the returns over $150,000AV and to determine if any assessments are improper. The county assessor would be permitted to audit the returns. This provision could result in increased expenses for county assessors.

Explanation of Local Revenues: *Tax Rates:* There are several types of property tax levies that are based on a maximum tax rate (i.e. cumulative building funds, etc.) These maximum tax rates are adjusted under current law each time there is an a general reassessment to adjust for the AV increase so that the levy does not increase by more than the natural AV growth. Under this bill, beginning with taxes payable in CY 2007, these rates would be adjusted every year to account for the AV increase due to annual adjustments (trending). The resulting tax levies in 2007, therefore, would be the same as the 2006 levies, but with a slight growth amount.

Budget and Debt Reporting Deadlines: Under current law, taxing units must supply information regarding bond issues and leases to the DLGF within 20 days of the bond issue or lease execution. Under this bill, taxing units would have until December 31 of a year to forward that information to the DLGF.

This bill also extends by 10 days the deadline fix budgets for most taxing units. The deadline would change from September 20th to September 30th. The deadline provisions should have no fiscal impact.

Disaster Reassessment: Under current law, a taxpayer may petition the DLGF to order a reassessment of destroyed property if a substantial amount of real and personal property is destroyed during a disaster. Under this proposal, the taxpayers would petition the county assessor directly instead of the DLGF. This provision should have no fiscal impact.

Exemption Filing: Exemption applications must currently be filed before May 15 of an assessment year. Under this provision, the applications would have to be filed on or before May 15. This provision would clarify the due date by adding one additional day to the deadline.

Abatement Corrections: Under current law, real property under development, and new manufacturing, research and development, and logistic equipment in an economic revitalization area, may qualify for property tax abatements under abatement schedule from one to ten years.

If an auditor's error results in a smaller deduction than to which the taxpayer is entitled, the error could affect one or more years in the abatement period thereby increasing the property's net assessed value for the years in question. If the error is discovered and corrected during the abatement period it could further reduce the net assessed value in the year it is corrected, leading to a much greater and unexpected shift of the tax burden from abated taxpayers to all taxpayers via an increased tax rate. A correction could also lead to a refund of overpaid taxes which could result on a revenue shortfall for taxing units.

Under this proposal, the AV adjustment to correct the error would be delayed until the first assessment after the abatement expires. If the amount of the adjustment is greater than the property's current assessed value, the difference can be carried over to subsequent assessment periods until the error is fully corrected.

As a result, (1) potential shortfalls from refunds for abatement corrections would be eliminated and (2) the tax shift from the correction would not exacerbate any shifts that may occur during the abatement period.

Levy Excess / Shortfall: Under current law, civil taxing units may appeal to the state's Local Government Tax Control Board to exceed their maximum levies to compensate for a shortfall that resulted from erroneous assessed valuation figures being used to calculate tax rates. Also under current law, all property tax collections in excess of a taxing unit's certified levy must be deposited into the unit's levy excess fund. Money in the fund is used to reduce the following year's tax levy.

Under this bill, civil taxing units would retain the part of the levy excess if the unit had a levy shortfall and did not receive approval of a shortfall appeal in the previous year . The civil unit could retain an amount up to the previous year's shortfall and use that money for current year spending. The amount deposited into the levy excess fund, and therefore, the amount of levy reduction in the following year would be reduced by the amount retained. The impact would vary year to year and unit by unit and would depend on the level of property tax delinquencies and their disposition.

State Agencies Affected: Department of Local Government Finance; Indiana Board of Tax Review; Indiana Attorney General; Indiana Tax Court.

Local Agencies Affected: County assessors; County auditors; County councils; County property tax assessment boards of appeal; Elected township assessors; Township trustee-assessors.

Information Sources:

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